Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
1998 Biennial Regulatory Review – Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Service, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms	)	CC Docket No. 98-171
	)	
Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990	)	CC Docket No. 90-571
	)	
Administration of the North American Numbering Plan and North American Numbering Plan Cost Recovery Contribution Factor and Fund Size	)	CC Docket No. 92-237 NSD File No. L-00-72
	)	
Number Resource Optimization	)	CC Docket No. 99-200
	)	
Telephone Number Portability	)	CC Docket No. 95-116
	)	
Truth-in-Billing and Billing Format	)	CC Docket No. 98-170

COMBINED STAFF STUDY COMMENTS AND SECOND FURTHER NOTICE REPLY COMMENTS OF THE CELLULAR TELECOMMUNICATIONS & INTERNET ASSOCIATION

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SUMMARY

In these combined comments, the Cellular Telecommunications & Internet Association ("CTIA") reiterates its support for the current modified revenue-based USF assessment system, and urges the Commission to reject the three alternate funding mechanism proposals delineated in the *Second Further Notice* and addressed in the Staff Study. As detailed in CTIA's combined comments, the three alternate "connection-based" proposals are unlawful, inequitable and administratively extremely complex to implement and administer.

The addition of a "minimum" contribution requirement to the original CoSus connection-based proposal does not change the basic problem – the fact that the plan derives the vast majority of its revenue from intrastate sources in violation of Sections 254(d) and 2(b). The Staff Study also shows that the modified connection-based plan is unfair and inequitable. Under the plan, the collection of USF revenues would be dramatically shifted from IXCs to LECs and CMRS carriers. Furthermore, the plan would seriously harm low-use and low-income consumers. For instance, a CMRS "peace of mind" customer that currently has a $15 per month plan and pays $0.39 per month in USF recovery would see their contribution jump to at least $1.00 – an increase of over 100%.

The "number-based" plan is no better. In essence, it is the connection-based plan seeking sanctuary under the Commission's jurisdiction over numbering. Proponents of the number-based plan, however, ignore the fact that Section 251 only pertains to the Commission's authority over numbering administration, and not fees, charges or taxes that are being bootstrapped to that authority. The number-based plan is as unfair and

inequitable to consumers as the connection-based plan. Furthermore the number-based plan suffers from operational deficiencies -- such as the cost and administrative burden of counting numbers on a monthly basis – that would make its implementation very expensive and administratively difficult.

Finally, The SBC/BellSouth "split connection" plan should be rejected because it attempts to shift an inordinate amount of the USF funding burden to CMRS carriers and their customers. In fact, according to the Staff Study, the $15.00 per month CMRS "peace of mind" customer who currently pays $0.39 per month in USF recovery would be slapped with a $1.41 a month fee under the "split connection" plan – an increase of over 360%! Such an increase cannot be countenanced with Section 254(d) which requires fair and equitable treatment among classes of carriers. The "split connection" approach would also undermine the Commission's integrated approach to CMRS by essentially returning to the old wireline paradigm of "local access" and "transport," which needlessly opens a host of regulatory issues.

A wide range of carriers and consumer groups have called on the Commission to retain the modified revenue-based USF assessment system, and give the December 2002 changes a chance to be implemented and work. CTIA believes that this consensus represents wise policy, and urges the Commission to reject the three alternatives presented in the *Second Further Notice*.

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COMBINED STAFF STUDY COMMENTS AND
SECOND FURTHER NOTICE REPLY COMMENTS OF THE
CELLULAR TELECOMMUNICATIONS & INTERNET ASSOCIATION

The Cellular Telecommunications & Internet Association ("CTIA")[1] hereby submits the following combined comments in response to the Commission's February 26,

[1] CTIA is the international organization of the wireless communications industry for both wireless carriers and manufacturers. Membership in the organization covers all Commercial Mobile Radio Service ("CMRS") providers and manufacturers, including

2003, Public Notice requesting comment on a Commission Staff Study analyzing the revenue-based Universal Service Fund ("USF") contribution mechanism and three other possible alternate USF contribution methodologies,[2] and the Commission's December 13, 2002, Further Notice requesting reply comment regarding proposed alternate methodologies.[3] As further detailed below, the Commission's Staff Study confirms that the modified revenue-based assessment system is the only assessment mechanism that is fair, non-discriminatory, and satisfies the strictures of Section 254(d) of the Telecommunications Act of 1996 (the "Act"). Accordingly, CTIA again requests that the Commission retain the modified revenue-based USF assessment system at this time.

I. ALL VARIATIONS OF THE "CONNECTION-BASED" PROPOSALS ARE INEQUITABLE, UNFAIR AND DO NOT MEET THE REQUIREMENTS OF SECTION 254(d)

A. The Modified "CoSus" Connection-Based Proposal Is Inequitable, Unfair and Illegally Assesses Contributions on Intrastate Revenues

Under the modified Coalition for Sustainable Universal Service ("CoSus") plan delineated in the *Second Further Notice*, a flat monthly fee would be assessed on all

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cellular, broadband PCS, ESMR, as well as providers and manufacturers of wireless data services and products.

2 *See Commission Seeks Comment on Staff Study Regarding Alternate Contribution Methodologies, Public Notice*, CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116, 98-170, NSD File No. L-00-72, FCC 03-31 (rel. Feb. 26, 2003).

3 *See Federal-State Joint Board on Universal Service, Report and Order and Second Further Notice of Proposed Rulemaking*, CC Docket No. 96-45, FCC 02-329 (rel. Dec. 13, 2002) (hereinafter "Second Further Notice"). On March 27, 2003, the Commission granted a request by AT&T Corp. and WorldCom to extend the date for comments on the Staff Study from March 31, 2003, to April 18, 2003. In this Order, the Commission also granted a request by Sprint allowing parties to file combined Staff Study Comments and Second Further Notice reply comments on April 18, 2003. *See Federal-State Joint Board on Universal Service, Order*, CC Docket No. 96-45, DA 03-1009 (rel. Mar. 27, 2003).

telephone connections.[4] In addition, this flat-rate fee on all connections would also be combined with an annual "minimum" contribution that would be assessable against all telecommunications carriers.[5] Although the modified CoSus plan is not entirely clear on how this "minimum" contribution will be assessed, it appears that it will be imposed on carriers that do not pay any "connection fees" and based on an undetermined percentage of a carrier's interstate revenues.[6]

1. The Modified Connection-Based Assessment Proposal Still Suffers From Numerous Legal Infirmities Under Both Section 254 and Section 2(b) of the Act

The modified CoSus connection-based assessment plan still does not comply with the legal requirements established by the U.S. Court of Appeals for the Fifth Circuit in *Texas Office of Public Utilities Counsel v. FCC*.[7] In that case, the Fifth Circuit ruled that Section 2(b) of the Communications Act, when read in conjunction with Section 254(d), prohibits the Commission from adopting a contribution mechanism that includes

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4 *See Second Further Notice* at 36, ¶ 75 (stating that "[r]esidential, single-line business, payphone, mobile wireless" connections would initially be assessed a "$1.00 per month" fee and that an unspecified "residual amount would be assessed on multi-line business connections").

5 *See id*. (noting that "every telecommunications carrier that provides interstate telecommunications services would be subject to a mandatory minimum annual contribution").

6 The operation of this "minimum contribution requirement," which was added to the original CoSus proposal in the Second Further Notice, is generally left undefined, which makes it difficult to determine exactly how this contribution mechanism will operate. *See id.* at 37-38, ¶¶ 78-80. Furthermore, even WorldCom – the main proponent of the overall CoSus proposal --notes in its comments that "no rational is provided for the proposed changes, and it is consequently difficult to conclude that they are reasonable"). *See* Comments of WorldCom, Inc. at 32.

7 183 F.3d 393 (5th Cir. 1999) (hereinafter "Texas Utility Counsel").

intrastate revenues in the calculation of universal service contributions.[8] In perfectly clear terms, the Court explained that "the inclusion of intrastate revenues in the calculation of universal service contributions easily constitutes a charge . . . in connection with intrastate communications service."[9] Like the original CoSus plan, however, the modified connection-based proposal would still garner the vast majority of its revenue from residential and business line connections, and provide no mechanism for separating intrastate revenues from interstate revenues. Moreover, it does not address the very real problem of "zero use" customers, such as the CMRS "glove box" customers who subscribe to wireless service for safety and security, but typically have no actual usage in any one month. Accordingly, the revised connection-based proposal still violates Section 2(b) of the Act, and goes squarely against the Fifth Circuit's decision in *Texas Utility Counsel*.

In addition, the modified CoSus plan cannot be countenanced with Section 254(d) of the Act, which requires all interstate carriers to contribute "on an equitable and non-discriminatory basis."[10] Rather than address the core problem of the original CoSus plan – the fact that it is non-equitable and violates Section 254(d) – the modified connection-based assessment proposal merely grafts a last-minute "minimum" contribution requirement onto the original CoSus connection-based plan. While this may at least partially address the problem of "all" interstate carriers contributing to the USF, it does nothing to actually address the root inequity and basic illegality of the original CoSus connection-based proposal, and still does not mandate either "equitable" or "non-

8 *Id*. at 447.

9 *Id.*

10 47 U.S.C. § 254(d).

discriminatory" contributions by carriers.[11] In fact, the Staff Study actually demonstrates that the modified CoSus proposal still discriminates against both certain classes of carriers and low-use and low-income consumers.

2. The Staff Study Shows that the Modified Connection-Based USF Assessment Proposal is Unfair and Inequitable

In 2003, the Commission Staff Study projects that 51% of USF-assessable interstate revenue will be generated by interexchange carriers ("IXCs"), 27% by local exchange carriers ("LECs"), and 22% by CMRS carriers.[12] These numbers change slightly in 2004, the first year that the modified CoSus plan could be fully implemented, with IXCs generating 48% of assessable interstate revenue, LECs generating 28%, and CMRS carriers generating 24%.[13] Under the staff study projections for the modified CoSus plan, however, IXC contributions in 2004 to the USF would drop dramatically to only 23%, while LEC contributions would rise to 49%.[14] CMRS carriers would also face

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[11] Furthermore, to the extent that the modified CoSus connection-based plan relies on a contribution factor assessed on interstate revenues, it concedes both the continued viability of the current modified revenue-based approach and the significant legal infirmities discussed above.

[12] *See* Staff Study at 5. Due to the relatively short timeframe for completing both the comments on the Staff Study and the reply comments in response to the Second Further Notice, CTIA has not had an opportunity to completely analyze all of the data and projected assumptions made in the Staff Study. CTIA notes, however, that certain projections vary from industry analyst assumptions. For example, the Staff Study projects that CMRS subscribers will grow to 171.3 million in 2005, 181.8 million in 2006, and 189.4 in 2007. Staff Study at 9. Recently released statistics by industry analysts, however, show a slower rate of growth. *See UBS Warburg, Wireless Service Model Book, First Quarter 2003* (rel. April 14, 2003) (projecting slower subscriber growth of 168.97 in 2005, 175.78 in 2006, and 181.75 in 2007). Accordingly, the Commission projections in the Staff Study may serve to minimize the impact of the three alternate proposals on CMRS carriers and customers.

[13] *See* Staff Study at 5.

[14] *See id*. at 6.

a contribution requirement increase unrelated to projected 2004 revenues, as their share of 2004 USF contributions would rise from 24% of total contributions to 28%.[15] Such a radical shift in contribution responsibilities is clearly inequitable, and violates the plain language of Section 254(d).

3. The Modified Connection-Based Assessment Would Unfairly Discriminate Against Low-Use and Low-Income Consumers

In addition to discriminating against specific classes of carriers, the proposed modified connection-based assessment system would also disproportionately impact low-use and low-income telecommunications users. In the CMRS context, for example, many low-use and low-income consumers rely on mobile phones for "peace of mind" and to be able to contact family members or public safety services in case of an emergency. Under the modified revenue-based proposal, however, many low-use and low-income CMRS subscribers would face astronomical increases in USF assessments. For example, under the current modified revenue-based system, a CMRS customer with a $15 per month "peace of mind" plan would pay approximately $0.39 per month in USF contribution.[16] Under the modified "CoSus" plan, however, that contribution would rise to at least $1.00 per month – an over 100% increase. This increase, in turn, will likely lead some low-use or low-income subscribers – who are generally more price sensitive than other users – to discontinue service. Such a result is unfair and also completely runs against the entire mandate of the overall Universal Service program – to bring affordable communications services to all Americans.

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15 *See id.*

16 The $0.39 figure is derived by taking the cost of the $15.00 monthly package, multiplying it by the wireless "safe harbor" factor of 0.285, and finally multiplying that sum by the First Quarter 2003 USF Contribution Factor of 0.091.

4. The Modified Connection-Based System Will Result in an Administrative Quagmire

The modified CosSus connection-based assessment funding proposal will also create a whole new set of administrative burdens and uncertainties. Rather than simplifying the current contribution mechanism, the modified connection-based proposal would preserve certain elements of the current revenue-based system, impose a new monthly reporting obligation on all carriers and require the creation of an entirely new system of complex allocations to implement the capacity-based charges to be recovered from multi-line business connections. Indeed, this portion of the proposal raises difficult administrative issues that may far exceed the problems the Commission identified with a revenue-based assessment mechanism.

The difficulty stems from the proposal to base the residential multi-line business assessment on the maximum capacity of the connections, and using bandwidth instead of lines to avoid the need to establish voice-grade equivalency rations for those connections. However, rapidly evolving wireline and wireless broadband technologies promise to make high-bandwidth applications available to all subscribers. The complexities of dealing with capacity-based or broadband-based assessment mechanisms (especially in light of Section 254(d)'s command that the contribution mechanism be "equitable and non-discriminatory" as technologies and services rapidly evolve) may far exceed the problems the Commission has identified with the current modified revenue-based assessment mechanism. Accordingly, the modified CoSus connection-based assessment plan should be rejected.

B. The Number-Based Contribution Proposal is Unfair and Inequitable

The number-based USF assessment proposal "would assess providers on the basis of telephone numbers assigned to end users (assigned numbers), while assessing special access and private lines that do not have assigned numbers on the basis of the capacity of those end-user connections."[17] While the number-based proposal may on its face appear to be a new proposal for USF assessment, in actually it is nothing more that a connection-based proposal cloaked in the guise of a new "jurisdictional hook."

1. The Number-Based Plan Suffers From the Exact Same Legal Infirmities as the Modified CoSus Connection-Based Proposal

Since the number-based USF assessment proposal essentially functions in the same manner as the modified connection-based assessment proposal, it also suffers from many of the same legal problems. Like the modified connection-based proposal, the number-based assessment proposal would levy a flat rate fee on each residential, single-line business, or CMRS number without regard to the actual usage or charges incurred through that number or connection. Accordingly, the number-based plan contains the exact same flaw as the modified connection-based proposal – it does not require carriers to contribute on an "equitable and non-discriminatory basis." Furthermore, the number-based plan also contains one of the key flaws of the original CoSus connection-based assessment proposal – it does not require "all" interstate carriers to contribute.

In addition, the number-based plan does require carriers to contribute based on intrastate revenues, in direct contravention of the Fifth Circuit's decision in *Texas Utility Counsel*. As Verizon Wireless notes in its comments, there "is no practical or logical way to separate telephone numbers held by carriers by virtue of whether they are used for

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[17] Second Further Notice at 44, ¶ 95.

local/intrastate calls."[18] Accordingly, the number-based proposal must be rejected due to its failure to meet the legal requirements of Sections 2(b) and 254(d) of the Act.

2. The Commission's Jurisdiction Over Numbering Administration Does Not Provide a Jurisdictional Basis for the Number-Based Assessment Proposal

In initial comments, certain proponents of a number-based assessment mechanism claim that even though the proposal may suffer from certain infirmities under Section 254(d), the Commission has the power to implement the plan due to its "plenary" numbering authority under Section 251. AT&T claims, for instance, that "any arguments that assessments on assigned telephone numbers would be beyond the Commission's jurisdiction simply do not apply."[19] Such analysis, however, ignores the fact that Section 251 pertains to numbering administration, and does not give the Commission plenary power over fees, charges, or taxes that are somehow connected to those numbers. As *Texas Utility Counsel* indicates, matters of fees, charges, or taxes on intrastate services – like a number-based USF assessment -- are excluded from the Commission's jurisdiction by virtue of Section 2(b).

3. The Staff Study Indicates That a Number-Based Assessment Mechanism Will Be Just as Unfair and Inequitable as the Modified Connection-Based Proposal

As noted previously, the staff study projects that in 2004, IXCs will generate 48% of USF-assessable interstate revenue, LECs will generate 28% of all assessable revenue, and CMRS carriers will generate 24% of all assessable revenue.[20] If the number-based

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[18] Comments of Verizon Wireless at 19.

[19] Comments of AT&T Corp. at 37.

[20] Staff Study at 5.

plan were implemented in 2004, however, those numbers would shift dramatically, with LECs generating 58% of USF contributions, IXCs only contributing 14% of USF contributions, and CMRS carriers contributing 28%.[21] Under the number-based plan, IXCs, which generate the vast majority of interstate revenue, would only pay a small fraction of overall USF costs. Such a mechanism would no longer even roughly approximate the distribution of intrastate/interstate revenue, and must be squarely rejected under Section 254(d).

4. The Number-Based Proposal Suffers From Numerous Operational Deficiencies

In addition to the numerous legal and equitable issues raised by the number-based proposal, it also suffers from serious operational flaws. In its comments, AT&T claims that the administration of a number-based system would be "dramatically simpler than the other alternatives presented in the Second FNPRM."[22] A simple review of the current numbering administration system, however, shows that this is not the case. Currently, policymakers track carriers' use of phone numbers by means of a semi-annual Number Resource Utilization Form ("NRUF") that carriers are obligated to submit to the North American Numbering Plan Administrator ("NANPA" or "Neustar"). While the Commission has determined that the semi-annual NRUF reporting meets their needs with regard to tracking number utilization, monthly (or perhaps quarterly) reporting would be required for Universal Service funding needs. Because NRUF reporting is labor-intensive, using the NRUF process for USF funding would be very burdensome to carriers. Moreover, the NRUF process has difficulty tracking "intermediate" numbers.

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[21] Staff Study at 8.

[22] AT&T Comments at 3.

"Intermediate numbers" are the numbers assigned to resellers and other third parties (and increasingly used for VoIP and ENUM services) that facilities-based carriers do not report because they do not have a relationship with the end user. Instead, the third-party service provider must report these numbers on the semi-annual NRUF report. Accordingly, if a number-based assessment process were implemented, it is likely that new, more labor intensive number-tracking process would have to be implemented. Such a process would increase the overall paperwork burden on carriers, and would certainly not constitute an improvement over the current assessment mechanism.

Also, like the modified CoSus connection-based proposal, the number-based assessment proposal would also assess special access and private lines that do not have assigned numbers on the basis of capacity of those end-user connections. As previously noted, this will create a new set of additional administrative burdens and uncertainties, and require the creation of an entirely new system of complex allocations to implement the capacity-based charges to be recovered from multi-line business connections. The complexities of dealing with capacity-based or bandwidth based assessment mechanisms (especially in light of Section 254(d)'s command that the contribution mechanism be "equitable and non-discriminatory" as technologies and services rapidly evolve) may far exceed the problems the Commission has identified with the current revenue-based assessment mechanism.

C. The SBC/BellSouth "Split Connection" Proposal is Inequitable and Would Unlawfully Single Out CMRS Carriers to Pay a Grossly Disproportionate Share of USF Funding

Under the first or "main" version of the SBC/BellSouth "split connection" proposal delineated in the *Second Further Notice* and analyzed in the Staff Study, a capacity-based assessment would be imposed on carriers that provide access to an interstate network, such as LECs, along with a second capacity-based assessment on carriers that provide transport on an interstate network, such as IXCs.[23] Since CMRS provides both services, CMRS carriers would be assessed two "connection" charges per customer under the main "split connection" proposal.[24]

In addition to the main proposal, the *Second Further Notice* also discusses two additional variants of the "split connection" proposal. Under the first alternative, the "transport connection fee" would be revenue-based, while under the second alternative, the "split" connection assessment would not be split if both the access and transport components are provided by the same carrier.[25] Since CMRS providers "would be assessed purely on a connection basis" under all variations of the "split connection" plan, these comments will focus on the effects of the "main" proposal and its effects on CMRS providers and their customers.

1. The Staff Study Shows That the "Split Connection" Proposal Is Inequitable and Blatantly Discriminates Against CMRS in Violation of Section 254(d)

In 2004, the Staff Study projects that, under a revenue-based system, IXCs would generate 48% of all USF-assessable interstate revenue, LECs would generate 28% of all assessable revenue and CMRS carriers would generate 24% of all assessable revenue.[26] Under the "split connection" plan, however, the CMRS portion of the overall USF bill

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23 *See* Second Further Notice at 40, ¶ 86.

24 *See id.*

25 *See id*. at 42, ¶ 92.

26 *See* Staff Study at 5.

would balloon to 41% of the total in 2004, while both IXC and LEC contributions would drop substantially, to 34% and 23% respectively.[27] Accordingly, the SBC/BellSouth "split connection" plan should be seen for what it really is – a plan that impermissibly discriminates against CMRS carriers and their customers for the benefit of IXCs and LECs. Such a proposal is clearly prohibited under Section 254(d).

Like the modified CoSus connection-based plan and the number-based plan, the SBC/BellSouth proposal clearly benefits certain classes of carriers at the expense of others. Since CMRS carriers provide both access and transport, they would be assessed "connection fees" that are twice those assessed on LECs and IXCs. Such treatment cannot be countenanced with the explicit command of Section 254(d), which requires that contributions be assessed on an "equitable and non-discriminatory basis."[28]

The Staff Study also clearly details the impact that the SBC/BellSouth proposal will have on CMRS customers and, specifically, those CMRS customers that are either low-use or low-income. As noted above, under the current modified revenue-based assessment system, a CMRS customer with a $15 per month "peace of mind" account pays approximately $0.39 per month in USF contribution. Under the SBC/BellSouth proposal, however, this customer would pay approximately $1.41 a month in contributions – a 360% increase! In this context, the SBC/BellSouth proposal is neither in conformity with Section 254(d) nor the overall spirit of the Universal Service program, which is to provide innovative services to all Americans – not take them away due to unfair regulatory assessments.

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[27] *See id*. at 7.

[28] 47 U.S.C. § 254(d).

2. The "Split Connection" Proposal Undermines the Commission's Integrated Service Approach to CMRS

In addition to the SBC/BellSouth plan's infirmities under Section 254(d), CTIA also agrees with the Verizon Wireless that the "split connection" assessment proposal also fails to recognize that CMRS is a unified service.[29] By using "wireline definitions" to split CMRS into "access" and "transport" components, the "split connection" proposal would undermine years of Commission precedent treating the provision of CMRS as a single, integrated service.[30] This, in turn, may raise a whole new host of regulatory issues.

CTIA notes, however, that while proponents of the SBC/BellSouth plan are apparently willing to pigeonhole CMRS into "landline" categories for certain regulatory purposes, they are not willing to let CMRS providers avail themselves of the same options that wireline providers may have under their own plan. For example, if the Commission adopted the first "alternative" split connection proposal, wireline transport providers would be assessed under a revenue-based assessment system. Wireless providers, on the other hand, would be assessed, according to the *Second Further Notice*,

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29 *See* Comments of Verizon Wireless at 14-16.

30 *See, e.g., Implementation of §§ 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services*, 9 FCC Rcd 1411, 1417 (1994) (finding that CMRS carriers' provision of interstate interexchange service was part of an integrated CMRS package when it ordered the de-tariffing of interstate services offered by CMRS carriers); *Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information, Second Report and Order and Further Notice of Proposed Rulemaking*, 13 FCC Rcd 8061 (1998) (dividing telecommunications offerings into three categories – local, interexchange, and CMRS – with the recognition that CMRS does not fit into either the local or interexchange category but actually encompasses a distinct product).

"purely on a connection basis."[31] Accordingly, the true intent of the SBC/BellSouth plan appears geared less at creating a "fair" USF assessment system than saddling CMRS providers with discriminatory USF assessments and regulations that fit only the old wireline paradigm. The Commission should swiftly reject all three variations of the SBC/BellSouth "split connection" proposal.

II. THE MODIFIED REVENUE-BASED USF ASSESSMENT IS THE ONLY CONTRIBUTION MECHANISM THAT IS FAIR, EQUITABLE AND MEETS THE REQUIREMENTS OF SECTION 254(d).

In light of the clear statutory problems and public policy concerns presented by the three alternate USF assessment proposals discussed in the *Second Further Notice*, CTIA believes that the Commission should focus on refining the current modified revenue-based system, rather than engage in a never-ending quest to find alternate contribution methodologies that merely shift contribution responsibilities from one class of carriers or consumer to another and create entirely new sets of complex issues, such as how to deal with capacity-based or bandwidth-based assessment mechanisms as technologies and services rapidly evolve. These issues may far exceed the concerns the Commission has identified with the revenue-based assessment system.

The December 2002 modifications to the revenue-based assessment system are just now being implemented. Notwithstanding assertions of a USF "death spiral, " it appears almost certain that the December 2002 modifications will provide the stream of revenue needed to satisfy USF demand in the near term. Furthermore, as part of the implementation of the December 2002 changes, many carriers have already made substantial modifications to their internal billing systems, and have engaged in efforts to

31 Second Further Notice at 42, n. 191.

inform consumers about the recent changes. Any new move to completely revamp the USF assessment system will require carriers to again completely redesign their billing systems, and will likely engender considerable customer confusion.

CTIA also notes that retention of the modified revenue-based system is currently supported by a diverse group of carriers and consumer advocates.[32] As Consumers Union, *et al*. noted in their initial comments, "[t]he interim measures to strengthen the USF assessment system adequately address concerns regarding the long-term stability of the USF, and therefore should be given the opportunity to succeed."[33]

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32 *See, e.g.*, Comments of Arch Wireless Operating Company, Inc. at 4-5; Comments of AT&T Wireless Services, Inc. at 5; Comments of the Concerned Paging Carriers at 4-5; Comments of Consumers Union, Texas Office of Public Utility Counsel, Consumer Federation of America, Appalachian People's Action Coalition, Center for Digital Democracy, Edgemont Neighborhood Coalition and Migrant Legal Action Program at 15 (hereinafter "Consumers Union, *et al*. Comments"); Comments of j2 Global Communications at 3; Comments of the League of United Latin America Citizens at 1; Comments of the National Association for the Advancement of Colored People, Washington Bureau at 1-2; Comments of the National Association of State Utility Consumer Advocates at 25-26; Comments of Nextel Communications, Inc. at 21-26; Comments of Rainbow/PUSH Coalition Comments at 1-2; Comments of Telecommunications Research & Action Center at 1; Comments of TracFone Wireless, Inc. at 5-13; Comments of Verizon Wireless at 5-7; Comments of WebLink Wireless, Inc. at 2.

33 Consumers Union, *et al*. Comments at 15.

CONCLUSION

For the aforementioned reasons, CTIA requests that the Commission retain the current modified revenue-based USF assessment system.

Respectfully submitted,

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